



July 10, 2000

Mr. James L. Hall
Assistant General Counsel
Texas Department of Criminal Justice
P. O. Box 4004
Huntsville, Texas 77342

OR2000-2574

Dear Mr. Hall:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 136867.

The Texas Department of Criminal Justice (the “department”) received a request for records relating to a particular interview for a specified job posting. You claim that responsive interview questions and answers are excepted from disclosure under section 552.122 of the Government Code. You also raise section 552.117(3) of the Government Code, which protects social security numbers and other personal information about an employee of the department. We have considered the exceptions you claim and have reviewed the information you submitted.

Section 552.122 of the Government Code excepts from required public disclosure “a test item developed by a . . . governmental body[.]” Gov’t Code § 552.122(b). In Open Records Decision No. 626 (1994), this office determined that the term “test item” in section 552.122 includes “any standard means by which an individual’s or group’s knowledge or ability in a particular area is evaluated,” but does not encompass evaluations of an employee’s overall job performance or suitability. *Id.* at 6. The question of whether specific information falls within the ambit of section 552.122(b) must be determined on a case-by-case basis. *Id.* Traditionally, this office has applied section 552.122 where release of “test items” might compromise the effectiveness of further examinations. *Id.* at 4-5; *see also* Open Records Decision No. 118 (1976).

The department seeks to withhold, as “test items,” five standardized interview questions and answers. You inform us that the department’s employment selection process includes structured interviews in which the same specific questions are asked of all applicants who reach the interview stage. You explain that these questions are intended to test the job applicant’s technical expertise. You inform us that the same questions and answers are used repetitively in filling certain positions. You assert that public disclosure of these questions and answers would increase the cost and undermine the fairness and effectiveness of the employment process. Based on your representations and our review of the submitted information, we conclude that the five questions and answers that you seek to withhold are excepted from disclosure under section 552.122 of the Government Code. Therefore, the department may withhold that information. As we are able to dispose of this matter under section 552.122, we need not address your claim under section 552.117.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

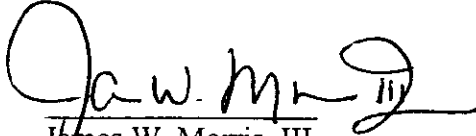
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body’s intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general’s Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Jaw. Morris III". The signature is fluid and cursive, with a large initial "J" and a stylized "W".

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/ljp

Ref: ID# 136867

Encl. Submitted documents

cc: Ms. Lorrie Spencer
16719 Creek Trail
Houston, Texas 77084
(w/o enclosures)